Supreme Court, U.S.
FILED
MAR 28 2000
CLERK

Nos. 99-1263 and 99-1265

In the Supreme Court of the United States

COMMONWEALTH OF MASSACHUSETTS AND STATE OF NEW JERSEY, PETITIONERS

v.

AMERICAN TRUCKING ASSOCIATIONS, ET AL.

AMERICAN LUNG ASSOCIATION, PETITIONER

v.

AMERICAN TRUCKING ASSOCIATIONS, ET AL.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE FEDERAL RESPONDENTS

SETH P. WAXMAN
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

GARY S. GUZY
General Counsel
Environmental Protection Agency
Washington, D.C. 20460

In the Supreme Court of the United States

No. 99-1263

COMMONWEALTH OF MASSACHUSETTS AND STATE OF NEW JERSEY, PETITIONERS

v.

AMERICAN TRUCKING ASSOCIATIONS, ET AL.

No. 99-1265

AMERICAN LUNG ASSOCIATION, PETITIONER

v.

AMERICAN TRUCKING ASSOCIATIONS, ET AL.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE FEDERAL RESPONDENTS

The Solicitor General, on behalf of the federal respondents, supports the petition for a writ of certiorari filed by the Commonwealth of Massachusetts and the State of New Jersey and the petition for a writ of certiorari filed by the American Lung Association. Those petitions, like the federal government's petition in *Browner* v. *American Trucking Ass'ns*, No. 99-1257, seek review

of a judgment of the United States Court of Appeals for the District of Columbia Circuit that remands the Environmental Protection Agency's (EPA's) final rules revising the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter. See Clean Air Act § 109, 42 U.S.C. 7409.

As the federal government explained in its petition, the court of appeals' rulings on the nondelegation doctrine and the scope of EPA's authority to implement a revised ozone NAAQS present issues of immense practical and legal importance that have a direct impact on the health of the American public. The petition of the States and the petition of a major public health organization underscore those points and provide additional information, perspective, and context for the legal issues framed in the federal government's petition. Those petitions should therefore be granted and consolidated for briefing and argument with the federal government's petition in No. 99-1257.

Respectfully submitted.

SETH P. WAXMAN
Solicitor General

GARY S. GUZY
General Counsel
Environmental Protection Agency

MARCH 2000